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Remarks:

*Amendments to the claims:*

Claims 1, 3-12, 14, 16, 17, 19 and 20 are pending in this application. By this Amendment, claims 1, 3-12, 14, 16 and 17 are amended, claims 2, 13, 15 and 18 are canceled, and new claims 19 and 20 are added. Claims 3-12, 14 and 16 are amended to maintain consistency with amended claim 1, and claims 5, 7 and 10 are amended to correct typographical errors therein.

No new matter is added to the application by this Amendment. The features added to claim 1 find support in canceled claims 2, 13 and 15 and within the specification, as original filed, at, for example, page 3, lines 1-5, page 5, lines 21-27, page 6, lines 17-26, page 37, lines 9-11. New claims 19 and 20 find support in the specification, as original filed, at, for example, page 37, lines 11-16.

*Regarding the rejection of claims 1-4 and 9-18 under 35 USC 102(e) as allegedly being anticipated by U.S. Patent No. 6,797,685 to Zhu et al. (hereinafter "Zhu"):*

Applicants respectfully traverse the rejection of the foregoing claims in view of Zhu.

Prior to discussing the relative merits of the Examiner's rejection, Applicants point out that unpatentability based on "anticipation" type rejection under 35 USC 102 requires that the invention is not in fact new. See *Hoover Group, Inc. v. Custom Metalcraft, Inc.*, 66 F.3d 299, 302, 36 USPQ2d 1101, 1103 (Fed. Cir. 1995) ("lack of novelty (often called 'anticipation') requires that the same invention, including each element and limitation of the claims, was known or used by others before it was invented by the patentee"). Anticipation requires that a *single reference* [emphasis added] describe the claimed invention with sufficient precision and detail to establish that the subject matter existed in the prior art. See, *In re Spada*, 911 F.2d 705, 708, 15 USPQ2d 1655, 1657 (Fed. Cir. 1990).

The principle of "inherency," in the law of anticipation, requires that any information missing from the reference would nonetheless be known to be present in the subject

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matter of the reference, when viewed by persons experienced in the field of the invention. However, "anticipation by inherent disclosure is appropriate only when the reference discloses prior art that must necessarily include the unstated limitation, [or the reference] cannot inherently anticipate the claims." *Transclean Corp. v. Bridgewood Servs., Inc.*, 290 F.3d 1364, 1373 [62 USPQ2d 1865] (Fed. Cir. 2002); *Hitzeman v. Rutter*, 243 F.3d 1345, 1355 [58 USPQ2d 1161] (Fed. Cir. 2001) ("consistent with the law of anticipation, an inherent property must necessarily be present in the invention described by the count, and it must be so recognized by persons of ordinary skill in the art"); *In re Robertson*, 169 F.3d 743, 745 [49 USPQ2d 1949] (Fed. Cir. 1999) (that a feature in the prior art reference "could" operate as claimed does not establish inherency).

Thus, when a claim limitation is not explicitly set forth in a reference, evidence "must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill." *Continental Can Co.*, 948 F.2d at 1268. It is not sufficient if a material element or limitation is "merely probably or possibly present" in the prior art. *Trintec Indus., Inc. v. Top-U.S.A. Corp.*, 295 F.3d 1292, 1295 [63 USPQ2d 1597] (Fed. Cir. 2002). See also, *W.L. Gore v. Garlock, Inc.*, 721 F.2d at 1554 (Fed. Cir. 1983) (anticipation "cannot be predicated on mere conjecture respecting the characteristics of products that might result from the practice of processes disclosed in references"); *In re Oelrich*, 666 F.2d 578, 581 [212 USPQ 323] (CCPA 1982) (to anticipate, the asserted inherent function must be present in the prior art).

With respect to independent claims 1, 12, 14, 16 and 17, the Patent Office alleges that Zhu teaches each and every feature recited therein. Applicants respectfully disagree with these allegations by the Patent Office.

In view of the cancellation of claims 2, 13, 15 and 18, this rejection is moot with respect to those claims.

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Claim 1 was amended to be directed to a non-cosmetic hard surface cleaning composition having a multiple emulsion system of the oil-in-water-in-oil type or the water-in-oil-water type, wherein at least two mutually incompatible or antagonistic active ingredients are separated in the system by an oily or aqueous phase. Additionally, the at least two active ingredients of claim 1 may be brought into contact with each other and may react to form different or enhanced active ingredients for use in the hard surface cleaning composition.

In contrast, Zhu discloses an aqueous liquid laundry detergent composition comprising a detergent surfactant, an emulsifier with an HLB value below about 8.5, an oil, and an electrolyte in an amount to provide ionic strength indicator of from about 0.55 to about 6.7 (see the abstract of Zhu).

Liquid laundry detergent products, like the composition of Zhu, are different in nature to hard surface cleaning products like the presently claimed invention. The liquid laundry detergent composition of Zhu fails to disclose a composition that cleans hard surfaces as required by claim 1. Thus, Zhu fails to disclose a hard surface cleaning composition for cleaning a hard surface selected from the group consisting of a ceramic, a glass, a stone, a plastic, a marble, a metal and a wood, the hard surface cleaning composition comprising a multiple emulsion system, wherein said multiple emulsion system is of the oil-in-water-in-oil type or the water-in-oil-water type and comprises at least two mutually incompatible or antagonistic active ingredients separated in said system by an oily or aqueous phase, then the at least two active ingredients previously held in separate phases of said system are brought into contact with each other and react to form different or enhanced active ingredients for use in the hard surface cleaning composition as required by amended claims 1, 12, 14, 16 and 17.

Because these features of independent claims 1, 12, 14, 16 and 17 are not disclosed by Zhu, Zhu cannot anticipate, nor would not have rendered obvious, the features specifically defined in claims 1, 12, 14, 16 and 17 and their dependent claims.

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For at least these reasons, claims 1, 3, 4, 9-12, 14, 16, 17 are patentably distinct from and/or non-obvious in view of Zhu. Reconsideration and withdrawal of the rejections of the claims under 35 U.S.C. 102(e) are respectfully requested.

*Regarding the rejection of claims 1-4 and 9-18 under 35 USC 102(a) as allegedly being anticipated by U.S. Patent No. 6,464,966 to Simon:*

Applicants respectfully traverse the rejection of the foregoing claims in view of Simon.

With respect to independent claims 1, 12, 14, 16 and 17, the Patent Office alleges that Simon teaches each and every feature recited therein. Applicants respectfully disagree with these allegations by the Patent Office.

In view of the cancellation of claims 2, 13, 15 and 18, this rejection is moot with respect to those claims.

Simon discloses a water/oil/water triple emulsion comprising an aqueous external phase and a W/O primary emulsion comprising an oily phase and an aqueous internal phase. However, the emulsion of Simon cleans, treats and/or protects skin, mucous membranes and/or keratinous fibers (see the abstract of Simon).

Personal care products for use on the skin or hair are different in nature to hard surface cleaning products/compositions. This difference arises in part from the different nature of the substrates. Skin and hair are naturally oily, because of the exudation of sebum. Personal cleaning products which are formulated to remove sebaceous deposits are generally desired to leave behind some skin conditioning agent, generally also of a greasy or hydrophobic (but more user-acceptable) nature – whether a hair conditioning agent, or an anti-wrinkle cream. Where a cleansing product is formulated to truly cleanse the skin or hair (by which we mean remove sebaceous deposits and put nothing on the skin or hair in its place) it is only sebaceous deposits which have to be dealt with. In contrast, hard surface cleaners deal with a much wider range of stains and/or soils. These stains and/or soils may be greasy but many are not. In other words, the stains

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and/or soils dealt with by a hard surface cleaning composition are much broader than stains and/or soils dealt with by personal cleaning products.

Simon fails to disclose a hard surface cleaning composition for cleaning a hard surface selected from the group consisting of a ceramic, a glass, a stone, a plastic, a marble, a metal and a wood, the hard surface cleaning composition comprising a multiple emulsion system, wherein said multiple emulsion system is of the oil-in-water-in-oil type or the water-in-oil-water type and comprises at least two mutually incompatible or antagonistic active ingredients separated in said system by an oily or aqueous phase, then the at least two active ingredients previously held in separate phases of said system are brought into contact with each other and react to form different or enhanced active ingredients for use in the hard surface cleaning composition as recited in amended claim 1, 12, 14, 16 and 17.

Because these features of independent claims 1, 12, 14, 16 and 17 are not disclosed by Simon, Simon cannot anticipate, nor would not have rendered obvious, the features specifically defined in claims 1, 12, 14, 16 and 17 and their dependent claims.

For at least these reasons, claims 1, 3, 4, 9-12, 14, 16, 17 are patentably distinct from and/or non-obvious in view of Simon. Reconsideration and withdrawal of the rejections of the claims under 35 U.S.C. 102(a) are respectfully requested.

*Regarding the rejection of claims 1-4 and 9-18 under 35 USC 102(b) as allegedly being anticipated by U.S. Patent No. 6,464,966 to St. Lewis et al. (hereinafter "St. Lewis"):*  
Applicants respectfully traverse the rejection of the foregoing claims in view of St. Lewis.

With respect to independent claims 1, 12, 14, 16 and 17, the Patent Office alleges that St. Lewis teaches each and every feature recited therein. Applicants respectfully disagree with these allegations by the Patent Office.

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In view of the cancelation of claims 2, 13, 15 and 18, this rejection is moot with respect to those claims.

St. Lewis discloses a dual compartment container containing at least one surfactant stripe and at least one multiple emulsion stripe and by dispensing a multiple emulsion stripe, greater deposition, particularly deposition of water soluble benefit agent (e.g., glycolic acid) is achieved than believed possible (see the abstract of St. Lewis). Additionally, St. Lewis discloses a composition for depositing water soluble benefit agents (e.g., glycolic acid, lactic acid, hydroxy caprylic acid, water soluble vitamins etc.) in greater amounts than previously possible when using PW shower gel type liquids and/or facial cleansers while maintaining good foam stability (see col. 1, lines 6-11 of St. Lewis).

St. Lewis describes dual compartment products in which one compartment contains a multiple emulsion. However, St. Lewis's dual compartment products are personal cleanser such a facial cleansers and shower gels. A skilled artisan would not have turned to St. Lewis to achieve the presently claimed invention in which the aim is to deliver potentially adversely interacting actives from the one composition. If one employed a dual bottle in the present invention there would be no need for a multiple emulsion.

St. Lewis' dual compartment product and multiple emulsion within one of the compartments does not teach or suggest the presently claimed hard surface cleaning composition of claim 1. Thus, St. Lewis fails to disclose a hard surface cleaning composition for cleaning a hard surface selected from the group consisting of a ceramic, a glass, a stone, a plastic, a marble, a metal and a wood, the hard surface cleaning composition comprising a multiple emulsion system, wherein said multiple emulsion system is of the oil-in-water-in-oil type or the water-in-oil-water type and comprises at least two mutually incompatible or antagonistic active ingredients separated in said system by an oily or aqueous phase, then the at least two active ingredients previously held in separate phases of said system are brought into contact with each other and react to form different or enhanced active ingredients for use in the hard surface cleaning composition as recited in amended claim 1, 12, 14, 16 and 17.

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Because these features of independent claims 1, 12, 14, 16 and 17 are not disclosed by St. Lewis, St. Lewis cannot anticipate, nor would not have rendered obvious, the features specifically defined in claims 1, 12, 14, 16 and 17 and their dependent claims.

For at least these reasons, claims 1, 3, 4, 9-12, 14, 16, 17 are patentably distinct from and/or non-obvious in view of St. Lewis. Reconsideration and withdrawal of the rejections of the claims under 35 U.S.C. 102(b) are respectfully requested.

*Regarding the rejection of claims 1-4 and 9-18 under 35 USC 102(a) as allegedly being anticipated by U.S. Patent Publication No. 2003/0133957 to Amalric et al. (hereinafter "Amalric"):*

Applicants respectfully traverse the rejection of the foregoing claims in view of Amalric.

With respect to independent claims 1, 12, 14, 16 and 17, the Patent Office alleges that Amalric teaches each and every feature recited therein. Applicants respectfully disagree with these allegations by the Patent Office.

In view of the cancelation of claims 2, 13, 15 and 18, this rejection is moot with respect to those claims.

Amalric discloses a topical composition consists one oily outer phase and two aqueous inner phases, one of which is a gel (see the abstract of Amalric). Amalric also discloses that the topical composition in the cosmetic, pharmaceutical or veterinary field or in the detergent field (see paragraph [0002] of Amalric). Further, the topical composition includes a primary emulsion with an oily outer phase introduced into an aqueous gel or an aqueous gel introduced into a primary emulsion with an oily outer phase (see paragraph [0009] of Amalric). Moreover, Amalric discloses a topical composition including primary emulsion and aqueous gel in a weight ratio of 50/50 (see paragraph [0094] of Amalric).

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Amalric's topical composition having an aqueous gel does not teach or suggest the hard surface cleaning composition of the presently claimed invention. Thus, Amalric fails to disclose a hard surface cleaning composition for cleaning a hard surface selected from the group consisting of a ceramic, a glass, a stone, a plastic, a marble, a metal and a wood, the hard surface cleaning composition comprising a multiple emulsion system, wherein said multiple emulsion system is of the oil-in-water-in-oil type or the water-in-oil-water type and comprises at least two mutually incompatible or antagonistic active ingredients separated in said system by an oily or aqueous phase, then the at least two active ingredients previously held in separate phases of said system are brought into contact with each other and react to form different or enhanced active ingredients for use in the hard surface cleaning composition as recited in amended claim 1, 12, 14, 16 and 17.

Because these features of independent claims 1, 12, 14, 16 and 17 are not disclosed by Amalric, Amalric cannot anticipate, nor would not have rendered obvious, the features specifically defined in claims 1, 12, 14, 16 and 17 and their dependent claims.

For at least these reasons, claims 1, 3, 4, 9-12, 14, 16, 17 are patentably distinct from and/or non-obvious in view of Amalric. Reconsideration and withdrawal of the rejections of the claims under 35 U.S.C. 102(e) are respectfully requested.

*Regarding the rejection of claims 1-16 and 18 under 35 USC 102(a) as allegedly being anticipated by WO 02/069917 to Glenn et al. (hereinafter "Glenn"):*

Applicants respectfully traverse the rejection of the foregoing claims in view of Glenn.

Prior to discussing the merits of the Examiner's position, the undersigned reminds the Examiner that the determination of obviousness under § 103(a) requires consideration of the factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1 [148 USPQ 459] (1966): (1) the scope and content of the prior art; (2) the differences between the claims and the prior art; (3) the level of ordinary skill in the pertinent art; and (4) secondary considerations, if any, of nonobviousness. *McNeil-PPC, Inc. v. L. Perrigo Co.*, 337 F.3d



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1362, 1368, 67 USPQ2d 1649, 1653 (Fed. Cir. 2003). There must be some suggestion, teaching, or motivation arising from what the prior art would have taught a person of ordinary skill in the field of the invention to make the proposed changes to the reference. *In re Fine*, 837 F.2d 1071, 1075, 5 USPQ2d 1596, 1600 (Fed. Cir. 1988). But see also *KSR International Co. v. Teleflex Inc.*, 82 USPQ2D 1385 (U.S. 2007).

A methodology for the analysis of obviousness was set out in *In re Kotzab*, 217 F.3d 1365, 1369-70, 55 USPQ2d 1313, 1316-17 (Fed. Cir. 2000) A critical step in analyzing the patentability of claims pursuant to section 103(a) is casting the mind back to the time of invention, to consider the thinking of one of ordinary skill in the art, guided only by the prior art references and the then-accepted wisdom in the field. Close adherence to this methodology is especially important in cases where the very ease with which the invention can be understood may prompt one "to fall victim to the insidious effect of a hindsight syndrome wherein that which only the invention taught is used against its teacher."

It must also be shown that one having ordinary skill in the art would reasonably have expected any proposed changes to a prior art reference would have been successful. *Amgen, Inc. v. Chugai Pharmaceutical Co.*, 927 F.2d 1200, 1207, 18 USPQ2d 1016, 1022 (Fed. Cir. 1991); *In re O'Farrell*, 853 F.2d 894, 903-04, 7 USPQ2d 1673, 1681 (Fed. Cir. 1988); *In re Clinton*, 527 F.2d 1226, 1228, 188 USPQ 365, 367 (CCPA 1976). "Both the suggestion and the expectation of success must be founded in the prior art, not in the applicant's disclosure." *In re Dow Chem. Co.*, 837 F.2d 469, 473, 5 USPQ2d 1529, 1531 (Fed. Cir. 1988).

With respect to independent claims 1, 12, 14 and 16, the Patent Office alleges that Glenn teaches each and every feature recited therein. Applicants respectfully disagree with these allegations by the Patent Office.

In view of the cancellation of claims 2, 13, 15 and 18, this rejection is moot with respect to those claims.

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Glenn discloses an emulsion treatment compositions having an aqueous continuous phase and a discontinuous phase in the form of an oil-in-oil emulsion having a reactive component including a reactive agent and internal oil, wherein the internal oil solubilizes the reactive agent, and a middle oil in which the reactive component is dispersed (see the abstract of Glenn). Additionally, the emulsion treatment compositions of Glenn are used to treat hair (see the abstract of Glenn).

Moreover, Glenn describes an oil-in-oil-in-water (o/o/w) multiple emulsion. In contrast, the claims of the present application are limited to w/o/w and o/w/o emulsions. Stabilization of an oil-in-oil (o/o) interface, as required in Glenn, is a different technical problem from stabilization of two oil-in-water (o/w) interfaces. However, the focus of Glenn is on "cosmetic actives," such as conditioners, dyes, styling aids and sunscreens.

Glenn's o/o/w multiple emulsion cosmetic active does not teach or suggest the presently claimed hard surface cleaning composition. Thus, Glenn fails to disclose a hard surface cleaning composition for cleaning a hard surface selected from the group consisting of a ceramic, a glass, a stone, a plastic, a marble, a metal and a wood, the hard surface cleaning composition comprising a multiple emulsion system, wherein said multiple emulsion system is of the oil-in-water-in-oil type or the water-in-oil-water type and comprises at least two mutually incompatible or antagonistic active ingredients separated in said system by an oily or aqueous phase, then the at least two mutually incompatible or antagonistic active ingredients previously held in separate phases of said system are brought into contact with each other and react to form different or enhanced active ingredients for use in the hard surface cleaning composition as recited in amended claim 1, 12, 14 and 16.

Because these features of independent claims 1, 12, 14, and 16 are not disclosed by Glenn, Glenn cannot anticipate, nor would not have rendered obvious, the features specifically defined in claims 1, 12, 14, 16 and 17 and their dependent claims.

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For at least these reasons, claims 1, 3-12, 14 and 16 are patentably distinct from and/or non-obvious in view of St. Lewis. Reconsideration and withdrawal of the rejections of the claims under 35 U.S.C. 102(a) are respectfully requested.

*Regarding the rejection of claims 1-18 under 35 USC 103(a) as being unpatentable over Amalric:*

Applicants respectfully traverse the rejection of the foregoing claims in view of Amalric.

The Patent Office alleges that Amalric teaches multiple emulsions may be stabilized with a hydrophobic silica. The Patent Office also alleges that it would have been obvious to one of ordinary skill in the art to incorporate a hydrophobic silica stabilizer in the composition of with a reasonable expectation of successfully forming an effective detergent composition. Applicants respectfully disagree with these allegations.

In view of the cancellation of claims 2, 13, 15 and 18, this rejection is moot with respect to those claims.

As discussed above with respect to the rejection under 35 U.S.C. §102, Amalric discloses a topical composition in the cosmetic, pharmaceutical or veterinary field or in the detergent field which includes a primary emulsion with an oily outer phase introduced into an aqueous gel or an aqueous gel introduced into a primary emulsion with an oily outer phase.

Amalric's topical composition having a primary emulsion introduced into an aqueous gel or an aqueous gel introduced into a primary emulsion does not teach or suggest the presently claimed hard surface cleaning composition. Specifically, Amalric fails to teach or suggest a hard surface cleaning composition for cleaning a hard surface selected from the group consisting of a ceramic, a glass, a stone, a plastic, a marble, a metal and a wood, the hard surface cleaning composition comprising a multiple emulsion system, wherein said multiple emulsion system is of the oil-in-water-in-oil type or the water-in-oil-water type and comprises at least two mutually incompatible or antagonistic active

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ingredients separated in said system by an oily or aqueous phase, then the at least two active ingredients previously held in separate phases of said system are brought into contact with each other and react to form different or enhanced active ingredients for use in the hard surface cleaning composition as recited in amended claim 1, 12, 14, 16 and 17.

Because these features of independent claims 1, 12, 14, 16 and 17 are not taught or suggested by Amalric, Amalric would not have rendered the features of claims 1, 3-12, 14, 16 and 17 obvious to one of ordinary skill in the art.

In view of the foregoing, reconsideration and withdrawal of this rejection are respectfully requested.

*Regarding New Claims 19 and 20:*

None of Zhu, Simon, St. Lewis, Amalric and Glenn, taken singly or in combination, teaches or suggests a step of applying the hard surface cleaning composition to a hard surface selected from the group consisting of a ceramic, a glass, a stone, a plastic, a marble, a metal, and a wood, wherein the hard surface is a bathroom hard surface or a kitchen hard surface (claims 19) and wherein the bathroom hard surface or the kitchen hard surface is selected from the group consisting of a sink, a bowl, a toilet, a panel, a tile, a worktop and a dish (claim 20) as recited in new claims 19 and 20.

In view of the foregoing, Applicants submit that new claims 19 and 20 are patentably distinct from and/or non-obvious in view of cited references, taken singly or in combination.

Should the Examiner in charge of this application believe that telephonic communication with the undersigned would meaningfully advance the prosecution of this application, they are invited to call the undersigned at their earliest convenience. The early issuance of a *Notice of Allowability* is solicited.

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**CONDITIONAL AUTHORIZATION FOR FEES**

Should any further fee be required by the Commissioner in order to permit the timely entry of this paper, the Commissioner is authorized to charge any such fee to Deposit Account No. 14-1263.

Respectfully Submitted;

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06 April 2009  
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**CERTIFICATE OF TELEFAX TRANSMISSION UNDER 37 CFR 1.8**

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Allyson Ross  
Allyson Ross

April 6, 2009  
Date

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